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August 11, 2005

Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: WC Dockets Nos. 05-196 and 04-36  
**Subscriber Notification Report**

Dear Ms. Dortch:

Xspedius Communications, LLC ("Xspedius"), by its attorneys, hereby files the attached "Subscriber Notification Report" in accordance with the requirements set forth in the Federal Communication Commission's Public Notice, *Enforcement Bureau Provides Guidance to Interconnected Voice Over Internet Protocol Service Providers Concerning the July 29, 2005 Subscriber Notification Deadlines*, WC Docket Nos. 04-36 and 05-196, DA 05-2085 (rel. July 26, 2005). Please feel free to contact the undersigned if you have any questions or need additional information.

Sincerely,



Todd D. Daubert,  
Counsel for Xspedius Communications

Attachment

**Xspedius Communications, LLC**  
**Subscriber Notification Report**  
**WC Dockets 04-36 and 05-196**

Xspedius Communications, LLC ("Xspedius") hereby submits the following Subscriber Notification Report ("Report"), which contains all of the information described in the Federal Communications Commission's Public Notice, *Enforcement Bureau Provides Guidance to Interconnected Voice Over Internet Protocol Service Providers Concerning the July 29, 2005 Subscriber Notification Deadlines*, WC Docket Nos. 04-36 and 05-196, DA 05-2085 (rel. July 26, 2005) ("Public Notice"). Accordingly, Xspedius has fully satisfied the condition set forth in the Public Notice to qualify for immunity from any enforcement action regarding the requirement that Xspedius obtain affirmative acknowledgement by every existing subscriber until August 30, 2005.

**Detailed description of all actions Xspedius has taken to specifically advise every subscriber, prominently and in plain language, of the circumstances under which E911 service may not be available through the interconnected VoIP service and/or may be in some way limited by comparison to traditional E911 service.**

On July 15, 2005, Xspedius distributed an E911 Advisory, appended hereto as Attachment A, and warning stickers, appended hereto as Attachment B, to existing Xspedius subscribers by mail. Xspedius asked each subscriber to acknowledge receipt and understanding of the Advisory by signing and returning a certification, which was included at the end of the E911 Advisory, in a pre-addressed, postage paid return envelope by July 29, 2005.

In addition to these steps for existing subscribers, each new subscriber is required to acknowledge receipt and understanding of the Advisory by signing the certification attached to the Advisory during the contract signature process or soon thereafter. E911 warning stickers will also be distributed to new subscribers at the same time. If a new subscriber refuses to sign the certification, Xspedius will not provide service to that subscriber.

**Quantification of how many of Xspedius' subscribers, on a percentage basis, have submitted an affirmative acknowledgement, as of the date of the report, and an estimation of the percentage of subscribers from whom Xspedius does not expect to receive an acknowledgement by August 29, 2005.**

As of August 9, 2005, approximately 51% of Xspedius' subscribers have submitted an affirmative acknowledgement. Xspedius respectfully submits that it is impossible to give a reliable estimate of the percentage of subscribers from whom it does not expect to receive acknowledgement by August 29, 2005. However, in order to satisfy fully the condition for immunity, Xspedius estimates that between 0 % and 5 % of our subscribers will not have returned an acknowledgement by August 29, 2005.

**Detailed description of whether and how Xspedius has distributed to all subscribers warning stickers or other appropriate labels warning subscribers if E911 service may be limited or not available and instructing the subscriber to place them on and/or near the customer premises equipment used in connection with the interconnected VoIP service.**

As explained above, on July 15, 2005 Xspedius mailed warning stickers, which are appended as Attachment B, to existing subscribers. The Advisory that accompanies the warning stickers instructs subscribers to "affix a warning sticker to every VoIP phone or computer to ensure that the advisory will be read by all potential users of your VoIP service."

**Quantification of how many subscribers, on a percentage basis, to whom Xspedius did not send the advisory described in the first bullet above and/or to whom Xspedius did not send warning stickers or other appropriate label as identified in the bullet immediately above.**

Based upon knowledge and belief, Xspedius sent the Advisory and warning stickers to all of its VoIP subscribers, and thus approximately 0% of our customers were not sent the Advisory.

**Detailed description of any and all actions Xspedius plans on taking towards any of its subscribers that do not affirmatively acknowledge having received and understood the advisory, including, but not limited to, disconnecting the subscriber's VoIP service with the Company no later than August 30, 2005.**

On July 28, 2005, Xspedius called every VoIP subscriber that had not yet returned an acknowledgment and for whom Xspedius had contact information. An Xspedius representative either personally spoke with or left voicemail for each of these subscribers.

The week of August 10, 2005, Xspedius plans to send certified letters to any remaining non-responsive VoIP subscribers emphasizing not only that the notice and acknowledgement are required by law, but also the consequences of a failure to return the acknowledgement including, but not limited to, disconnection of the subscriber's VoIP service. This reminder letter will set an August 29, 2005 deadline for receipt of the acknowledgment and will, if necessary, be followed with another call to the subscriber the week before the deadline. Xspedius will take whatever action is necessary at that time and expects that all subscribers will comply with the FCC's acknowledgement requirements.

**Detailed description of how Xspedius is currently maintaining any acknowledgements received from its subscribers.**

Xspedius is maintaining records of all acknowledgments of receipt and understanding of the Advisory described above at our corporate headquarters at 5555 Winghaven Blvd., Suite 300, O'Fallon, MO 63368-3626.

**Name, title, address, phone number, and e-mail address of the person responsible for Xspedius' compliance efforts with the VoIP E911 Order.**

James C. Falvey  
Senior VP, Regulatory Affairs  
14405 Laurel Place, Suite 200  
Laurel, MD 20707-6102  
(301) 361-4298

## **ATTACHMENT A**



July 15, 2005

[Customer name  
and address]

**Re: E911 VoIP Service Notification: Return Reply Required by Law**

Dear Valued Xspedius Customer:

Recently, the Federal Communications Commission ("FCC") issued its First Report and Order in the Matters of IP-Enabled Services (WC Docket No. 04-36) and E911 Requirements for IP-Enabled Service Providers (WC Docket No. 05-196) ("Order"). This Order requires Xspedius to inform you of the limitations of VoIP 911/E911 service. Accordingly, Xspedius is sending this letter to notify you and all other Xspedius VoicePipe™ VoIP subscribers of certain circumstances where your VoIP 911/E911 service may not provide you with a 911/E911 connection. We strongly recommend that you tell others in your business and your guests of these limitations.

***We are required by law to obtain confirmation from you that you have read and understood this letter and request that you certify below and return to Xspedius a signed copy of this letter. Please complete and return the certification below to Xspedius by July 29, 2005, either by using the enclosed self-addressed, stamped envelope or by facsimile, following the instructions below.***

Some of the circumstances under which 911/E911 service may not be available include:

- a failure of your Internet connection;
- relocation of your VoIP phone or computer;
- delays that may occur in updating the emergency database;
- improper population of your address into Xspedius's or the 911 databases;
- using a telephone number that is not assigned to the local calling area of your present location;
- Xspedius media gateway failure (the failure of the equipment that converts traditional telephone service into Internet Protocol); and
- loss of electrical power.

Xspedius is also required by the recent FCC Order to provide you with a warning sticker for each phone or computer used with your VoIP service. Please affix a sticker

5555 Winghaven Boulevard • Suite 300 • O'Fallon, MO 63368  
main phone 636.625.7000  
[www.xspedius.com](http://www.xspedius.com)

to every VoIP phone or computer to ensure that the advisory will be read by all potential users of your VoIP service.

Thank you for your cooperation in this important matter. We will be contacting you shortly if we do not receive your signed certification in a timely fashion. If you have any questions concerning the FCC's Orders or this certification, please call us at 1-877-962-1900 and we will be glad to answer any questions you may have.

Sincerely,

Jim Falvey  
Sr. Vice President  
Regulatory Affairs

Enclosure: Warning Stickers

**Certification**

I have read and understood the above information regarding the limitations on 911/E-911 emergency services available through the VoicePipe™ service and the warning stickers issued to my company.

\_\_\_\_\_  
Authorized Customer Name (please print)

\_\_\_\_\_  
Authorized Customer Signature

\_\_\_\_\_  
Date

Please sign, date and send this letter by July 29, 2005  
to Xspedius in the enclosed self-addressed envelope or fax this form to:

Pamela Rak  
Xspedius Communications, LLC  
FAX 636-625-7191

## **ATTACHMENT B**



**Warning: 911/E911 emergency  
service may not be available from  
this VoIP phone/computer.**

**Warning: 911/E911 emergency  
service may not be available from  
this VoIP phone/computer.**

**Warning: 911/E911 emergency  
service may not be available from  
this VoIP phone/computer.**